IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CR No.160 of 2006

Decided on:December 26, 2006

State of H.P. & Ors. **.....Petitioners.**

VERSUS

***Bimla Kumari* & Ors.** **.....Respondents.**

Coram

The Hon'ble Mr. Justice V.K. Gupta, Chief Justice.

Whether approved for reporting?[1]

For the Petitioners: **Mr.P.M.Negi, Dy. Advocate General.**

For Respondents 1 to 3: **Ms.Jyotsna Rewal Dua, Advocate.**

V.K. Gupta, Chief Justice (Oral)

After hearing the learned counsel for the parties and on going through the impugned judgment passed by the learned Additional District Judge, Sirmaur at Nahan on 20th November, 2002 in Civil Miscellaneous Application No.58-N/6 of 2000 filed in Civil Appeal No.23-N/13 of 2000, I feel convinced that the learned Court below by adopting a very hyper technical approach and taking a pedantic view of the whole matter has wrongly rejected the petitioners' application filed under Section 5 of the Limitation Act. The delay in preferring the appeal against the judgment of the then Senior Sub Judge passed on 19th May, 2000 was only 75 days and a perusal of the record does show that the petitioners had sufficiently explained

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

this delay, especially in view of the fact that the file had to be routed and re-routed at different official channels, including the Assistant District Attorney, District Attorney and S.D.M. as well as the Deputy Commissioner, Sirmaur at Nahan.

2. The impugned order is set aside. The petitioners' application filed under Section 5 of the Limitation Act for condonation of delay in filing the aforesaid appeal shall stand allowed and delay in filing the aforesaid appeal is hereby condoned with directions that the said appeal shall be treated to have been filed in time.

3. Record be sent back to the learned Additional District Judge, Sirmaur District at Nahan where the parties through their learned counsel are directed to appear on ***19th January, 2007.*** On that date, the learned Additional District Judge shall take up the petitioners' appeal for consideration and passing appropriate directions.

4. The petition is allowed. No order as to costs.

December 26, 2006 **(V.K. Gupta)**
(soni) **Chief Justice.**